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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/070,282	04/15/2002	Shankar Subramanian	AGA 6263 US	2887

27624 7590 08/16/2007
AKZO NOBEL INC.
INTELLECTUAL PROPERTY DEPARTMENT
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TARRTOWN, NY 10591

EXAMINER

KUGEL, TIMOTHY J

ART UNIT	PAPER NUMBER
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1712

MAIL DATE	DELIVERY MODE
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08/16/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/070,282	Applicant(s) SUBRAMANIAN ET AL.	
	Examiner Timothy J. Kugel	Art Unit 1712	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 July 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213..

Disposition of Claims

- 4) ☒ Claim(s) 6-11, 13, 15-24 and 30-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 6-11, 13, 15-22, 34 and 37 is/are allowed.
- 6) ☒ Claim(s) 23, 24, 30 and 37 is/are rejected.
- 7) ☒ Claim(s) 35 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 6-11, 13, 15-24 and 30-39 are pending as amended on 3 July 2007, claims 1-5, 12, 14 and 15-29 being cancelled.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Response to Amendment

3. Applicant's amendment, filed 3 July 2007, particularly removing the duplicate Markush members from claims 15, 23 and 30, clarifying the amount of cationic surfactant required in independent claim 15 and clarifying the dependency of claim 11 has been fully considered and is corrective.

The objection to claims 15, 23 and 30 because of informalities has been withdrawn.

The rejection of claims 6-11, 13, 15-22, 34 and 37 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention has been withdrawn.

Claim Rejections - 35 USC § 102

4. Claims 23, 24, 30 and 38 stand rejected under 35 U.S.C. 102(b) as being anticipated by WO 94/17154 (Thomas hereinafter).

Thomas teaches a method of removing particles from a wellbore, such as in a drilling method, which comprises using a surfactant within the scope of the present invention (see the compound at page 10, lines 20-25). The composition comprises a fatty acid or salt (claim 4), and an acid such as sulfuric or hydrochloric acid is added at various points of use, which supply the anion X (page 7, lines 23-31). Since Thomas teaches the same composition as instantly claimed it would clearly reduce friction as in claim 30.

Double Patenting

5. Claims 31-33, 36 and 39 stand provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-4, 12 and 13 of copending Application No. 11/701353. Although the conflicting claims are not identical, they are not patentably distinct from each other because although the claims of 11/701353 do not specify the amount of salt or surfactant, it would be obvious to one of ordinary skill to vary the concentrations thereof, in order to obtain optimum fluids for various well treatments.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Response to Argument

6. Applicant's arguments filed 3 July 2007 have been fully considered but they are not persuasive.

Applicant argues that Thomas fails to teach the instant invention in teaching a combination of an amphoteric and a cationic surfactant and a foaming operation; however, the inclusion of the amphoteric surfactant is not precluded from the language of the claims, which use the transitional term 'comprising', which is inclusive or open-ended and does not exclude additional, unrecited elements or method steps such as the amphoteric surfactant or foaming the composition.

Applicant argues that Thomas fails to teach the instant invention in not teaching suspending particles in the aqueous fluid; however, Thomas' teaching of removal of particles from the wellbore and subsequent removal from the composition read on the instant limitation of suspending particles.

Applicant still further argues that the fatty acid is useful in collapsing the foam; however, the Examiner in the previous Office action was pointing to the fatty acids and sulfuric acids as reading on the limitations of "at least one additive selected from the group consisting of ...organic acids" and "X is selected from the group consisting of...oxo ions of...sulfur" respectively.

Allowable Subject Matter

7. Claims 6-11, 13, 15-22, 34 and 37 are allowed for the reasons of record.

Claim 35 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

1. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy J. Kugel whose telephone number is (571) 272-1460. The examiner can normally be reached 6:00 AM – 4:30 PM Monday - Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy Gulakowski can be reached on (571) 272-1302. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

Art Unit: 1712

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

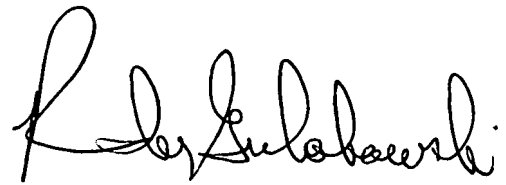
For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

/TJK/

Patent Examiner, AU 1712

A handwritten signature in black ink, appearing to read "Randy Gulakowski", with a stylized, cursive script.

RANDY GULAKOWSKI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700